

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

COMMONWEALTH OF
MASSACHUSETTS, *et al.*,

Plaintiffs,

v.

NATIONAL INSTITUTES OF
HEALTH, *et al.*,

Defendant[s].

Civil Action No. 25-CV-10338-AK

STATUS REPORT

On February 10, 2025, the Court entered an *ex parte* temporary restraining order in the above captioned matter. (Doc No. 25). The TRO provides, among other things:

- Defendants and their officers, employees, servants, agents, appointees, and successors are hereby enjoined from taking any steps to implement, apply, or enforce the Rate Change Notice (NOT-OD-25-068) within Plaintiff States until further order is issued by this Court.
- Counsel for Defendants shall file a status report with the Court within 24 hours of the entry of this Order, and at biweekly intervals thereafter, confirming the regular disbursement and obligation of federal financial assistance funds and reporting all steps that NIH, HHS and their officers, employees, servants, agents, appointees, and successors have taken to comply with the Court's temporary restraining order.

The Court extended the TRO on February 21, 2025. (Doc No. 96).

In accordance with the TRO, Defendants respectfully submit this status report, along with the attached Declaration of Dr. Liza Bundesen.

In the first status report required by the TRO, Defendants confirmed that they had not yet implemented, applied, or enforced the Rate Change Notice and that they would

not do so pending further order from the Court. Doc. No. 46-1. They confirmed that the regular disbursement and obligation of federal financial assistance funds in the Plaintiff States would continue as required under the TRO. *Id.*

As indicated in Dr. Bundesen's declaration Defendants have not implemented, applied, or enforced the Rate Change Notice. Dr. Bundesen's declaration explains that, pending further order of the Court, Defendants will not implement the Rate Change Notice. She confirms that the regular disbursement and obligation of federal financial assistance funds will continue in the Plaintiff States.

Respectfully submitted,

LEAH B. FOLEY
United States Attorney

BRIAN C. LEA
Deputy Associate Attorney General

Dated: February 25, 2025

/s/ Thomas Ports
BRIAN C. LEA (Ga. Bar No. 213529)
Deputy Associate Attorney General
MARCUS S. SACKS (Ga. Bar No. 621937)
Deputy Director
KEVIN P. VANLANDINGHAM (NY Reg.
No. 4741799)
Assistant Director
THOMAS PORTS (Va. Bar No. 84321)
Trial Attorney
U.S. Department of Justice
Civil Division
Corporate/Financial Section
P.O. Box 875
Ben Franklin Stations
Washington D.C. 20044-0875
Tel: (202) 445-8823
Email: thomas.ports@usdoj.gov
Attorneys for Defendants

CERTIFICATE OF SERVICE

I hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF).

Dated: February 25, 2025

/s/ Thomas Ports
Thomas Ports